THE HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.23672 OF 2007

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Date: 19.11.2007

Between:

Smt. Ballani Tulasi … Petitioner

And

The Government of A.P. represented by its Superintendent of Police, Guntur District, Guntur and others. … Respondents.

ORAL ORDER: **(per A. Gopal Reddy, J)**

Smt. Ballani Tulasi wife of Nageswara Rao, resident of Chinna Bethapudi Village, Guntur District has filed this Writ petition for a writ of habeas corpus directing the respondents to produce her son by name Ballani Gangadhar, alleging that on 27.10.2007 while herself and her family members were at their house at about 3.00 p.m. I.D. party constables by name Rama Raju and Rambabu, who are working under the control of Inspector of Police, Bapatla had forcibly taken away her son Ballani Gangadhar and confined him initially in the 4th respondent Police Station and subsequently shifted him to 3rd respondent Police Station without assigning any reasons as to why he was detained, that the alleged detenu was subjected to third degree methods and police are demanding huge amount of

Rs.50,000/- on the ground of false recoveries from him.

The Circle Inspector of Police, Bapatla – 2nd respondent herein filed counter-affidavit stating that on 6.9.2005 one B. Apparao who is working as Panchayat Secretary of Vedullapalle Village lodged a complaint stating that while he was attending to his duty at the Gram Panchyat Office, he came to know about the suspicious death of one M. Shankar and pursuant to the said complaint police visited the house of the deceased person at Vedullapalle and found the dead body on the cot with some blood stains and none of his family members were present in the house. Basing upon the complaint, a case in Crime No.45 of 2005 was registered under Section 174 Cr.P.C and took up investigation, which revealed that five months prior to the death of the deceased person, a theft had occurred in the house cum shop of one Grandhi Balarangi Setty of Chinna Bethapudi Village. The investigation further revealed that on 3.9.2005 at 10 a.m. the deceased person went to the said shop and handed over three torn two rupee (Rs.2.00) notes and two one rupee (Re.1.00) notes with a request to adjust the amount towards the debt payable to Grandhi Balarangi Setty. On receipt of the said notes, the owner of the Shop Balarangi Setty found that the said currency notes are the notes stolen from his shop five months prior to the said date and when questioned, the deceased person escaped from the scene. In the panchayat held on 4.9.2005, the deceased person along with one Ballani Somaiah and Ballani Venkaiah attended the panchayat in Sivalayam at Chinna Bethapudi village. In the panchayat the deceased confessed the commission of the offence along with others but did not reveal the names of persons who helped him in the commission of the offence, but, however, agreed to pay Rs.25,000/- to the village elders towards the stolen property and requested the village elders to postpone the issue for two or three days and later on the intervening night of 5/6.9.2005 the deceased was found dead in his house under suspicious circumstances. Subsequently, the postmortem examination report dated 17.9.2005 received from the Civil Assistant Surgeon, Government Area Hospital, Bapatla revealed that the death was occurred due to shock due to lacliac plexus injury to the abdominal wall and on a questionnaire being sent to the Doctor, it was clarified that there were five injuries on the body of the deceased and out of them injuries 1 and 2 were caused by a sharp weapon and injuries 3, 4 and 5 were caused by a blunt object and the said injuries may cause the death in ordinary course of nature. Basing on the opinion of the doctor, the section of law was altered from Section 174 Cr.P.C to Section 302 I.P.C on 1.10.2005 and investigation was handed over to the C.I of Police, Bapatla. The police suspected that the co-accused who helped the deceased in the commission of the offence of theft might have caused the death of the deceased apprehending that the deceased may reveal their names. Later, one Guntur Raghavulu and Mindala Venkatappa, who were examined during the course of investigation, stated that on the date of the offence they saw the alleged detenu Ballani Gangadhar @ Errodu, Ballani Koteswarao @ Nallodu, Madigani Yacob and Ballani Ankaiah @ Venkaiah coming out of the house of the deceased. On the said information, the police apprehended Madigani Yacob and Ballani Gangadhar on 13.11.2007 and on examination, they confessed to have caused the death of the deceased along with Ballani Koteswara Rao and Ballani Ankaiah @ Venkaiah. Basing on their confession, they were arrested and were produced before the Judicial First Class Magistrate, Bapatla on the same day and on such production, the learned Magistrate remanded them to judicial custody and they are now lodged at Sub-Jail, Bapatla. Out of them, Ballani Ankaiah @ Venkaiah was in judicial custody and lodged in Central Prison, Rajahmundry in connection with

Cr.No.79 of 2007 under sections 457 and 380 IPC of T. Narasapuram Police Station, Chinthalapudi Circle, W.G. District and after obtaining P.T. warrant he was produced before the Judicial First Class Magistrate Bapatla on 17.1.2007 and thereafter he was remanded to judicial custody. So far as Ballani Koteswara Rao is concerned, he is absconding and police are making efforts to apprehend him.

In view of the averments made in the counter that the alleged detenu and others were arrested in connection with a crime registered for the offence punishable under section 302 I.P.C and were produced before the jurisdictional Magistrate and remanded to judicial custody by lawful orders passed by the Magistrate, the allegation that the police have illegally detained the alleged detenu and others cannot be accepted. Therefore, we find no merit in the writ petition, which is accordingly dismissed.

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A. GOPAL REDDY, J

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19th November, 2007 **NOOTY RAMAMOHANA RAO, J**

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